

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

NADIM SHAKOURI HANNA,

Defendant-Appellee.

UNPUBLISHED

March 13, 2012

No. 304798

Oakland Circuit Court

LC No. 1999-168608-FH

Before: OWENS, P.J., and JANSEN and MARKEY, JJ.

MEMORANDUM.

The prosecution appeals by leave granted the circuit court's order granting defendant's motion for relief from judgment pursuant to MCR 6.500 *et seq.*, permitting defendant to withdraw his plea, and granting defendant a new trial. We reverse.

Even assuming *arguendo* that the relief-from-judgment provisions of MCR 6.500 *et seq.* would otherwise apply in this case, this Court has made clear that the decision of the United States Supreme Court in *Padilla v Kentucky*, 559 US ____; 130 S Ct 1473; 176 L Ed 2d 284 (2010), does not apply retroactively. *People v Gomez*, ____ Mich App ____; ____ NW2d ____ (released February 14, 2012; Docket No. 302485). Under our pre-*Padilla* precedent, defense counsel did not render constitutionally deficient representation by failing to inform defendant of the potential immigration consequences of his plea. *Id.*, slip op at 4; see also *People v Davidovich*, 463 Mich 446, 453; 618 NW2d 579 (2000). Accordingly, the circuit court abused its discretion by misapplying the law and by granting defendant's motion for relief from judgment on the basis of ineffective assistance of counsel. See *People v Giovannini*, 271 Mich App 409, 417; 722 NW2d 237 (2006); *People v McSwain*, 259 Mich App 654, 681; 676 NW2d 236 (2003). We reverse the circuit court's grant of defendant's motion for relief from judgment and reinstate defendant's guilty plea.

Reversed.

/s/ Donald S. Owens

/s/ Kathleen Jansen

/s/ Jane E. Markey